



Crl.R.C. No.1304 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

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S. Stephen

...Petitioner

Vs.

State represented by
The Inspector of Police
H-3 Tondairpet Police Station
Chennai 81
Cr.No.76/2023

... Respondent

Prayer : Criminal Revision filed under Section 397 Cr.P.C. against the order dated 06.06.2023 passed by the learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P. No.3430 of 2023 in Crime No.76/2023.

For Petitioner : Mr.G.M. Gokulram

For Respondent ; Mr. R.Vinothraja, GA (Crl. Side)



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ORDER

Challenging the orders dated 06.06.2023 passed by the learned XV Metropolitan Magistrate, George Town, Chennai, in Crl.M.P. No.3430 of 2023, which was filed for the return of Vivo Y 35 dawn gold colour cell phone, that was seized from the present revision petitioner in connection with Crime No.76/2023 of H-3 Tondairpet Police Station, the present petition is filed.

2. The case of the prosecution is that the Sub Inspector of Police, H-3 Tondairpet Police Station, Chennai, on getting a secret information on 05.04.2023, at about 10.20 a.m. went to Sanjeevarayan Koil street and Bala Arunachalam Street Junction, along with his police party and found the accused 1 to 4 selling Nitravet-10 tablets and also possessing 14 Nos of Nitravet-10 tablets in their custody. The accused were arrested and the contraband were seized along with the mobile phone belonging to the 3rd accused and their statements were recorded. Thereafter, an FIR in Cr.No.76 of 2023 was registered by the Sub



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Inspector of Police, H-3 Tondairpet Police Station, Chennai, for the offences under Sections 8(c), 22(b) and 29(1) of NDPS Act against the accused 1 to 4 and they were produced before the XV Metropolitan Magistrate, George Town, Chennai and were remanded to judicial custody.

3. The present petitioner/3rd accused filed a petition in Crl.M.P. No.3430 of 2023 under Section 451 Cr.P.C. before the XV Metropolitan Magistrate, George Town, Chennai, for the return of Vivo Y 35 dawn gold colour cell phone, which was seized from him and the same was dismissed on the ground that since the case is still under investigation, the mobile phone cannot be returned to the petitioner/3rd accused. Aggrieved over the same, the present petition is filed.

4. Heard Mr.G.M. Gokulram, learned counsel for the petitioner and Mr. R.Vinothraja, GA (Crl. Side) for the respondent.



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5. Mr.G.M. Gokulram, learned counsel for the petitioner contended that the Nitravet tablets were seized only from A1 and that his mobile phone has nothing to do with the alleged offence. He therefore, prayed for return of the mobile phone.

6. Per contra, Mr. R.Vinothraja, Government Advocate (Crl. Side) appearing for the respondent would contend that all the accused in the instant case are arrested and the investigation is almost completed. He did not raise any serious objection for return of the mobile phone to the present petitioner.

7. In such circumstances, this Criminal Revision Petition is allowed and the impugned order dated 06.06.2023 passed by the learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P. No.3430 of 2023 in Crime No.76/2023, is set aside. The XV Metropolitan Magistrate, George Town, Chennai, is directed to return the mobile phone to the present petitioner/3rd accused on the following conditions :



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- i) The petitioner shall execute a bond for a sum of Rs.5,000/-
(Rupees Five Thousand Only) before the learned XV Metropolitan
Magistrate, George Town, Chennai.
- ii) The Court may prepare a panchanama in Judicial Form No.82
with regard to Vivo Y 35 dawn gold colour cell phone and such
panchanama can be used in evidence.
- iii) the petitioner shall take photograph of the Vivo Y 35 dawn gold
colour cell phone and certified under Section 65B of the Central
Act 1 of 1972 and such photographs may be used as secondary
evidence.
- iv) the petitioner shall not alienate or encumber the mobile phone in
any manner;



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- v) the petitioner shall give an undertaking that he will not use the mobile phone for any illegal activities in future,
- vi) the petitioner shall also produce the mobile phone as and when required before the court below and before the respondent police.

No costs.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order

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R. HEMALATHA, J.
bga

To

XV Metropolitan Magistrate, George Town, Chennai

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